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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In the Matter of:
THREE ARROWS CAPITAL, LTD AND RUSSELL Main Case No.
CRUMPLER, 22-10920-mg
Debtors.

- - - - -x

United States Bankruptcy Court
One Bowling Green
New York, New York

July 28, 2022
10:02 AM

B E F O R E:
HON. MARTIN GLENN
CHIEF U.S. BANKRUPTCY JUDGE
ECRO: AMANDA

1

2 Hearing Using Zoom for Government RE: Recognition Hearing. (Doc
3 ## 1 to 5, 18, 32, 37, 39, 40)

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CHRISTOPHER FARMER, Foreign Representative, Teneo(BVI)Ltd

GAIL REISER, Latham & Watkins, Technology Consultant

1 P R O C E E D I N G S

2 THE COURT: Good morning, everyone. This is Judge
3 Glenn. We're here for the recognition hearing for Three Arrows
4 Capital, 22-10920.

5 Mr. Goldberg, are you going to be making the
6 presentation?

7 MR. GOLDBERG: Yes. Good morning, Your Honor. For
8 the record, Adam Goldberg of Latham & Watkins.

9 THE COURT: Good morning. Go ahead.

10 MR. GOLDBERG: Good morning. Thank you, Your Honor.
11 Thank you for the opportunity to be heard this morning. I'm
12 joined by my colleague on the screen, Nima Mohebbi, to cover
13 any evidentiary or witness issues that may arise. We're also
14 joined on the Zoom this morning by the foreign representatives
15 Russell Crumpler and Christopher Farmer, and counsel to the
16 liquidators in the BVI, Grant Carroll of Ogier, who have all
17 submitted declarations in support of the petition today.

18 The purpose of this hearing, Your Honor, is to hear
19 our petition for recognition of the BVI liquidation of Three
20 Arrows Capital Ltd as a foreign main proceeding. Before I get
21 into that matter, I would like to give the Court a very brief
22 update that we have withdrawn our motions to seal certain
23 aspects of the petition and the certificates of service. Those
24 documents are all now available publicly on the docket.

25 THE COURT: I saw that. Thank you very much, Mr.

1 Goldberg.

2 MR. GOLDBERG: Thank you, Your Honor.

3 If Your Honor would permit, we have a presentation
4 that we'd like to share on the screen to provide an overview of
5 the debtor, its pending BVI proceeding, and our petition for
6 recognition. That presentation is filed on the docket. It
7 covers both the initial presentation that I largely delivered
8 to the Court at our hearing about two weeks ago as well as
9 updates, and for the purposes of saving time for everyone, I
10 will focus on the updates this morning.

11 THE COURT: That's fine. The presentation materials
12 were filed as ECF docket number 46. And additionally, I have
13 it open on a separate screen in front of me, so you can go
14 ahead.

15 MR. GOLDBERG: Very good. Thank you. And I'd ask
16 that Gail Reiser be given permission to present. She's raising
17 her hand.

18 THE CLERK: Yes. I made her a cohost.

19 MR. GOLDBERG: Thank you.

20 Just let me know when the slides are up.

21 We're just bringing the slides up now, Your Honor.
22 There we go.

23 THE COURT: Yes. To be sure that I didn't have to
24 look at a tiny little bird on the screen, I do have it open on
25 a separate screen in front of me, so I can see it easily.

1 MR. GOLDBERG: Thank you, Your Honor.

2 Okay. If you'd go to the next slide, please.

3 So just to cover very briefly, this is mostly things
4 that we covered at our hearing two weeks ago. Three Arrows was
5 well known in the crypto industry as a proprietary trading
6 fund. As of December 2021 it reportedly had over six billion
7 dollars in assets under management. It was funded, in part,
8 through substantial loans of digital assets, including
9 cryptocurrency like Bitcoin, as well as fiat currency from
10 multiple lenders.

11 The business effectively collapsed between May and
12 June of this year in the wake of the extreme market movements
13 in the cryptocurrencies, particularly the collapse of the luna
14 coin, in which Three Arrows was heavily invested.

15 This next slide here, Your Honor, provides an
16 organizational chart for the debtor and certain of its
17 affiliates. It has also been filed on the docket under the
18 supplemental declaration of Mr. Crumpler.

19 There is one debtor in this Chapter 15 case. That is
20 the green entity, Three Arrows Capital Ltd, at the bottom
21 middle of the screen, and two other entities on that row are
22 feeder funds that put the money into Three Arrows Capital for
23 its investments.

24 The direct equity owner of the debtor is Three Arrows
25 Capital Pte Ltd, which is a Singapore entity and previously was

1 the investment manager for the debtor. We understand that
2 investment management arrangement was terminated on or about
3 August 20th, 2021, and the new investment manager is 3AC Ltd,
4 which is a BVI entity also shown to the left on the screen
5 there. This organizational chart also shows how the founders
6 and one of their spouses hold and control both of the
7 investment managers.

8 On June 24th a creditor initiated involuntary
9 proceedings in the BVI seeking appointment of the joint
10 liquidators. Shortly thereafter, on June 27th, the debtor
11 initiated voluntary proceedings for liquidation in the BVI, and
12 that same day the BVI court entered an order commencing the
13 liquidation process and appointing Russell Crumpler and
14 Christopher Farmer as joint liquidators in the BVI. That order
15 expressly authorized the joint liquidators to file this Chapter
16 15 case, and under BVI law the liquidators are fiduciaries and
17 officers of the BVI court and are essentially empowered to
18 control the debtors' assets, control the debtor, realize its
19 assets, including causes of action, all for the benefit of
20 creditors.

21 This case was commenced on July 1st by the filing of
22 the Chapter 15 petition. This case is initially intended to
23 preserve the status quo for the benefit of all parties-in-
24 interest, to assist the liquidators in obtaining discovery and
25 control of the debtors' assets in the United States, and to

1 provide a forum to seek relief from the courts of the United
2 States as the liquidation continues.

3 In addition to this Chapter 15 case, on July 9th the
4 liquidators also commenced a proceeding for recognition of the
5 BVI proceedings in Singapore. On July 15th the Singapore court
6 entered an order granting provisional relief, which, in large
7 part, is consistent with the provisional relief that this Court
8 granted towards staying execution against the debtors' assets
9 in Singapore and assisting the liquidators in obtaining
10 discovery of the debtors' assets. A hearing on recognition of
11 the BVI proceedings in Singapore is now scheduled before the
12 courts of Singapore for August 22nd.

13 THE COURT: Ask who that is pending before?

14 MR. GOLDBERG: Your Honor, let me check on the name of
15 the judge in Singapore.

16 THE COURT: Thank you.

17 MR. GOLDBERG: Thank you. And I'll come back to you
18 on that in a moment.

19 THE COURT: Yeah, go ahead.

20 MR. GOLDBERG: Thank you. Since the liquidators were
21 appointed, the foreign representatives have been pursuing their
22 investigation with urgency and by all lawful means, and I
23 described that in some detail at our hearing about two weeks
24 ago. Those efforts have been continuing, as set out on this
25 slide here.

1 I would provide a key update that as part of the
2 liquidation process creditors have begun to file their claims
3 with the liquidators in BVI, and at present the liquidators
4 have received claims totaling in excess of 2.8 billion dollars.
5 We expect that number to increase significantly as the process
6 continues.

7 Both prior to and following the provisional relief
8 granted by this Court, the liquidators have sought information
9 from dozens of financial institutions and other parties with
10 information on the debtors' assets through both formal and
11 informal means.

12 And now I'd like to be clear about our position on the
13 founders. We have served them with a subpoena, or attempted to
14 serve them with a subpoena through their counsel, following
15 this Court's order at the provisional relief hearing. The
16 founders' counsel in Singapore refused to accept that service.

17 To date, the founders have provided the liquidators
18 with what we regard as rather selective and piecemeal
19 disclosures of the debtors' assets. The founders have not made
20 themselves available for any discussions or interviews with the
21 liquidators, whether formal or informal. Although we would
22 note that the founders did make themselves available for an
23 interview by Bloomberg, which was reported through an article
24 in the last week, they do continue to conceal their
25 whereabouts.

1 The liquidators would prefer to work cooperatively
2 with the founders to continue to develop information on the
3 debtors' assets and realize those for the benefit of all
4 creditors, so as to maximize value. And we continue to seek
5 their voluntary engagement and availability for interviews,
6 whether formal or informal.

7 I should note, as I did at the outset, that the
8 liquidators are under fiduciary duties that require them to
9 ascertain the debtors' assets as quickly as possible. And
10 however much we may wish for the founders' voluntary
11 cooperation, in the absence of that cooperation, the
12 liquidators will be seeking to compel the founders' delivery of
13 information through all available means. And given the current
14 status of engagement, or lack thereof, with the founders, we do
15 expect to be before this Court again to seek further assistance
16 in the coming days and weeks.

17 THE COURT: May I ask you this, Mr. Goldberg?

18 MR. GOLDBERG: Yes.

19 THE COURT: In some countries, and actually in some
20 states within the United States, the board members, members or
21 incorporators, by statute, in a jurisdiction, have, when they
22 apply for registration, they submit to the jurisdiction of
23 those courts. And my question is, in the BVI -- I think I
24 asked this question the last time, you told me that the
25 founders here had signed papers in the BVI -- whether BVI law

1 provides that they've submitted to the jurisdiction of the BVI
2 courts by doing so?

3 MR. GOLDBERG: Your Honor, I, of course, would defer
4 to our counsel, Mr. Carroll, in the BVI on exactly the nature
5 of their submission to jurisdiction in the BVI. Our position,
6 no doubt, is that the founders are subject to compulsory
7 disclosures through process in the BVI. And I think Your Honor
8 should be aware, we are actively working to seek appropriate
9 applications in the BVI, potentially in Singapore or elsewhere,
10 to obtain information from the founders. Those have not yet
11 been put on file, but may be coming soon.

12 THE COURT: Thank you, Mr. Goldberg.

13 MR. GOLDBERG: Thank you, Your Honor. And I can
14 answer your question on the judge in Singapore, and apologies
15 to the court there if I mispronounce his name. It is the
16 Honorable Justice Vinodh --

17 THE COURT: It's Vi --

18 MR. GOLDBERG: Coomaraswamy.

19 THE COURT: It's Vinodh Coomaraswamy. Yes.

20 MR. GOLDBERG: Yes.

21 THE COURT: He and I have taught together, in fact.

22 MR. GOLDBERG: Very good, Your Honor. Thank you. I'm
23 glad. And thank you for that assistance on his pronunciation.

24 THE COURT: Go ahead.

25 MR. GOLDBERG: Moving along. Another key update, Your

1 Honor, since our last hearing has been the initial meeting of
2 creditors under BVI law. On July 18th the liquidators held the
3 initial meeting out of the BVI. The creditors voted to
4 maintain the appointment of the joint liquidators and establish
5 a creditors' committee. The committee is comprised of five
6 unsecured creditors. Its role is to assist the liquidators
7 through regular consultations and discussions of the
8 liquidators' efforts to obtain and realize assets and pursue
9 any causes of action.

10 And so that, Your Honor, completes my update and
11 overview. Unless Your Honor has any other questions, I would
12 next proceed to the admission of evidence through the
13 declarations that have been filed.

14 THE COURT: Please go ahead.

15 MR. GOLDBERG: Thank you, Your Honor. The
16 declarations that are relevant to the motions today, Your
17 Honor, are from Mr. Crumpler, one of the joint liquidators and
18 foreign representative, and those are filed at docket ECF
19 numbers 3, 23 and 37. In addition, we have declarations from
20 Mr. Grant Carroll, BVI counsel to the liquidators and foreign
21 representatives, and those are at docket ECF numbers 4 and 25.
22 Each of the declarants is present in this virtual courtroom via
23 Zoom and available for cross-examination.

24 In Mr. Crumpler's declarations at docket numbers 3, 23
25 and 37 he testifies, among other things, that the debtor was

1 incorporated in the BVI. The debtor is regulated by the BVI
2 Financial Services Commission, including subjecting itself to
3 potential audit and enforcement actions in the BVI. The debtor
4 has property in the United States, including interest in a
5 retainer held in the New York office of Dan Tan Law. That's a
6 law firm here in New York, which represents the debtor in an
7 arbitration proceeding being conducted in New York. And in
8 addition, the debtor holds rights under New York law loan
9 agreements, including those that are subject to that
10 arbitration.

11 THE COURT: Before you go on, Mr. Goldberg, let me
12 ask. Does anybody have any objections to the Court admitting
13 in evidence the Crumpler declarations, ECF 3, 23 and 37?

14 All right. Hearing no objection, those three
15 declarations are admitted in evidence.

16 (Mr. Crumpler's three declarations were hereby received
17 into evidence as Debtors' Exhibits, as of this date.)

18 And then with respect to the Carroll declaration --
19 declarations, plural -- which are ECF 4 and 25, does anyone
20 have any objections to those declarations being admitted in
21 evidence?

22 Hearing no objection, those declarations are in
23 evidence as well.

24 Go ahead, Mr. Goldberg.

25 (Mr. Carroll's two declarations were hereby received into

1 evidence as Debtors' Exhibits, as of this date.)

2 MR. GOLDBERG: Thank you, Your Honor. With those
3 submissions, and I'm sure the Court has reviewed those
4 declarations, we would next turn to the merits of our petition
5 for recognition.

6 THE COURT: Please go ahead.

7 MR. GOLDBERG: Thank you, Your Honor. And I should
8 note at the outset that we have conducted service of those
9 Chapter 15 filings and petition in accordance with the relevant
10 local rules and the scheduling and notice order that Your Honor
11 entered on July 7th. The certificates of service, which are
12 now public on the docket, are at ECF numbers 42, 43, 44, and
13 45.

14 And so if you could put that slide up.

15 Your Honor, we're here today to seek an order
16 recognizing the BVI proceeding as a foreign main proceeding and
17 seeking relief under Sections 1517, 1520 and 1521, including
18 the stay of enforcement actions and creditor actions in the
19 United States, granting comity to the liquidation orders
20 entered in the BVI, and entrusting the debtors' assets in the
21 United States to the foreign representatives.

22 Your Honor, we submit that the petition satisfies all
23 of the requirements for recognition as a foreign main
24 proceeding. Our motion and this presentation lay out all of
25 the details on satisfying those requirements, which Your Honor

1 is extremely familiar with. Given that familiarity, I am happy
2 to conclude here, in the interest of time, or if the Court
3 would prefer to walk through each of the elements of how our
4 petition satisfies the requirements for recognition.

5 THE COURT: Well, let me say, I've read all of the
6 papers. And let me see whether there is any other counsel who
7 wishes to be heard with respect to the issue of recognition of
8 the BVI proceeding as a foreign main proceeding. All right.
9 Hearing no one, I'm prepared to go ahead and rule.

10 At the time of the initial hearing, when I granted
11 provisional relief, I spoke very briefly about the issue of
12 COMI. While the debtor is registered in the BVI, it certainly
13 appears that prior to the commencement of the BVI liquidation
14 proceeding its COMI was in Singapore, where its offices were
15 located and the founders managed the business. However, as I
16 said during that initial hearing on provisional relief,
17 applying the Second Circuit's test in *Fairfield Sentry*, the
18 appropriate time to determine COMI is as of the filing of the
19 Chapter 15 petition.

20 By that time, and really, once the BVI liquidation
21 proceeding was commenced, certainly under the Second Circuit's
22 *Fairfield Sentry* case and other authority in the Second
23 Circuit, the COMI had shifted to the BVI. The BVI entity, the
24 foreign debtor, is in the control of the joint liquidators, who
25 are in BVI. As the evidence submitted shows, they've opened a

1 bank account, and all activity in terms of recovering the
2 assets of the entity, all of that is being done from the BVI.
3 The liquidation proceeding is subject to the supervision and
4 control of the BVI court.

5 So I certainly find -- I won't go through all of the
6 rest of the recitations, but the evidence clearly establishes
7 that as of the filing of the Chapter 15 petition, the COMI of
8 this foreign debtor is in the British Virgin Islands. The
9 evidence that's been submitted shows that all of the other
10 requirements for recognition of the BVI proceeding as a foreign
11 main proceeding, of the joint liquidators as the foreign
12 representatives in this case, all of that has been satisfied.

13 And so I'm pleased to be able to recognize the BVI
14 proceeding as a foreign main proceeding.

15 So let's go on and talk briefly about the relief that
16 you're seeking.

17 MR. GOLDBERG: Thank you very much.

18 THE COURT: So upon recognition as a foreign main
19 proceeding, under Section 1520 of the Bankruptcy Code certain
20 relief follows automatically from it, but you sought additional
21 relief, which is discretionary relief under Section 1521.

22 MR. GOLDBERG: Yes. Thank you, Your Honor. I think
23 here what we're looking for is described in more detail and in
24 language that has been worked out with certain of our
25 creditors, who provided comments to the proposed order, which

1 I'm happy to work through, walk through each paragraph or focus
2 on the changes, if Your Honor would prefer.

3 THE COURT: You can just focus on the changes. Let me
4 raise one other issue. I think there -- I haven't seen whether
5 this has been added to your order, but I think what you
6 submitted needs should be amended to provide specifically
7 what's provided in Section 1521(a)(6). (a)(6) provides, as one
8 of the forms of discretionary relief, extending the relief
9 granted under Section 1519(a). So the relief granted under
10 1519(a) was the provisional relief that I previously extended,
11 and I think the order should include -- I assume that you want
12 that provisional relief extended and picked up in the
13 recognition order as well.

14 MR. GOLDBERG: Thank you, Your Honor. Yes. We do
15 seek to continue that provisional relief and the ongoing
16 discovery process that we have been administering through that
17 order. And so we would add a simple sentence as an additional
18 paragraph to the order that makes clear that the order entered
19 under 1519 on a provisional basis would continue pursuant to
20 1520(a)(6), as Your Honor suggests and very helpfully comments.

21 The changes to the order, I think, are really designed
22 to address two points. One was a comment we received from a
23 particular creditor and another in an effort to address some of
24 the questions that we received from Your Honor at the last
25 hearing. Those changes to the order are all really comprised

1 in paragraph 4, and the redline for that is at docket number
2 ECF 40. And the second exhibit to that filing includes a
3 redline, and it includes a proviso, an exception from the
4 general stay that applies by virtue of Section 1520 and
5 sections in Section 362 of the Bankruptcy Code.

6 And consistent with the concept that the BVI
7 proceeding does not stay the enforcement of a valid and
8 perfected security interest, we have agreed that the
9 enforceable and perfected security interest held by Digital
10 Currency Group Inc. and its affiliates would not be subject to
11 the stay, subject to a requirement that DCG, as we call them,
12 would provide at least five calendar days' notice to the
13 foreign representatives of any foreclosure action, and also
14 subject to a reservation of rights for all parties as to the
15 validity, enforcement, perfection, and priority of any
16 purported security interest. So that is the first change that
17 we made to the order, essentially in settlement of comments
18 that we received from DCG.

19 Second, Your Honor, we included a sentence, for the
20 avoidance of doubt, that the entirety of Section 362 applies to
21 the debtor and his property in the United States, and that is
22 simply to provide comfort to the Court and all parties-in-
23 interest that all of Section 362 does apply, including the
24 ability to seek relief from the stay and the various safe
25 harbor provisions of that section, to the extent they are

1 applicable to any derivatives contracts of the debtor. We
2 don't have a position today, Your Honor, on whether there are
3 derivatives that are subject to the safe harbor provisions. No
4 one has raised that issue with us, to our knowledge, but it is
5 an issue Your Honor flagged, and we're conscious of it.

6 THE COURT: Thank you.

7 MR. GOLDBERG: And then, in addition to that, that
8 substantive edit, we made conforming changes in paragraphs 6
9 and 7, just to be clear that those provisions of the order that
10 enjoin parties from disposing of assets of the debtors or
11 commencing suits are subject to the exceptions that were agreed
12 in paragraph 4.

13 THE COURT: Okay.

14 MR. GOLDBERG: And those are the changes to the order,
15 Your Honor.

16 THE COURT: All right. Does anybody else wish to be
17 heard?

18 All right, Mr. Goldberg. The Court approves all of
19 the discretionary relief that the foreign representative has
20 sought under Section 1521. And the changes that you've
21 described in the order are certainly acceptable to the Court,
22 seem appropriate in the circumstances. So if you submit the
23 order in Word format, it'll be promptly entered.

24 MR. GOLDBERG: Thank you very much, Your Honor. And
25 if I may take just a moment, I would inform the Court of

1 upcoming expected filings in this case.

2 We, in addition to additional relief that we may be
3 seeking in the near term on discovery matters, as I alluded to
4 earlier, we do expect also to file a motion for approval of
5 protocols for judicial coordination among the various courts in
6 the United States, BVI and Singapore, consistent with the JIN
7 protocol that has been approved in this Court before Your
8 Honor.

9 THE COURT: I'm certainly happy to do that. And if
10 and when it's appropriate, I'm certainly open to court to court
11 communications with both Justice Coomaraswamy in Singapore.
12 And remind me of the name of the judge in BVI who has the case.

13 MR. GOLDBERG: Well, right now, I think, Your Honor,
14 as I understand it from recent discussions, there is a bit of a
15 rotation during the summer period in BVI, and we can provide
16 some further detail on the judges that are assigned as part of
17 the upcoming motion.

18 THE COURT: As you know, I mean, I think -- well, I
19 know that Singapore has adopted the JIN guidelines. I'm not
20 certain on BVI. But I'm certainly, as I have done in other
21 Chapter 15 cases, had court to court communications, when
22 appropriate, with judges in the other countries in which
23 matters are pending. So if and when that's appropriate, you
24 can raise that in an appropriate pleading, and I'm happy to do
25 that. And I've also, in a number of cases, approved protocols,

1 written protocols, to be sure that -- here it would be all
2 three courts are advised of what's happening in the other
3 courts as well. Okay?.

4 MR. GOLDBERG: Thank you, Your Honor.

5 THE COURT: All right. Does anybody else wish to be
6 heard with respect to Three Arrows?

7 All right. I appreciate all of your work.

8 And at this stage I take it we don't have any
9 hearings, additional hearings scheduled; is that correct?

10 MR. GOLDBERG: Not yet, Your Honor.

11 THE COURT: Okay. All right. And the procedure for
12 if you need a hearing date is to contact my courtroom deputy,
13 Deanna Anderson, and we'll be happy to provide you with hearing
14 dates. Okay?

15 MR. GOLDBERG: Thank you. We will do so.

16 THE COURT: All right. Thank you very much. And we
17 are adjourned.

18 MR. GOLDBERG: Thank you, Your Honor.

19 (Whereupon these proceedings were concluded at 10:29 AM)

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I N D E X

E X H I B I T S

DEBTORS'	DESCRIPTION	MARKED	ADMITTED
	Mr. Crumpler's three		16
	declarations		
	Mr. Carroll's two		17
	Declarations		

RULINGS:	PAGE	LINE
BVI proceeding is recognized as a	19	13
foreign main proceeding		
Discretionary relief that the foreign	22	19
representative has sought is approved		

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C E R T I F I C A T I O N

I, Hana Copperman, certify that the foregoing transcript is a true and accurate record of the proceedings.

Hana Copperman

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Date: July 29, 2022

A	against (1) 11:8	arbitration (2) 16:7,10	19:19;21:5	Carroll's (1) 16:25
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